

Alan Kruckenberg Construction, Inc. ("Kruckenberg") asks the Utah Labor Commission to review Administrative Law Judge La Jeunesse's dismissal of Kruckenberg's notice of contest of a citation issued by the Utah Division of Occupational Safety and Health ("UOSH") against Kruckenberg for violation of the Utah Occupational Safety and Health Act ("the Act"; Utah Code Annotated Title 34A, Chapter 6).

The Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-6-304.

BACKGROUND AND ISSUE PRESENTED

UOSH cited Kruckenberg for violation of Utah's Occupational Safety and Health Act. Kruckenberg challenged the citation by filing a notice of contest with the Commission's Adjudication Division. However, before any action was taken on the notice of contest, Kruckenberg and UOSH entered into a settlement agreement that modified the citations and penalties against Kruckenberg. The settlement agreement also provided that Kruckenberg waived its right to contest the citations, as modified by the settlement agreement.

On March 8, 2004, Judge La Jeunesse approved the parties' settlement agreement and, pursuant to that agreement, dismissed Kruckenberg's notice of contest. On April 7, 2004, the Commission received Kruckenberg's request for review of Judge La Jeunesse's decision. In summary, Kruckenberg challenges the validity of the citation issued by UOSH and alleges that UOSH representatives "pressured" Kruckenberg to sign the settlement agreement.

DISCUSSION

Although Kruckenberg contends it was pressured into settling this matter, Kruckenberg provides no evidence or explanation to support that contention. The Commission therefore concludes that the settlement agreement is valid and should be enforced. On that basis, Judge La Jeunesse properly dismissed Kruckenberg's notice of contest.

ORDER

The Commission affirms Judge La Jeunesse's order and denies Kruckenberg's motion for review. It is so ordered.

Dated this 18th day of August, 2004.

R. Lee Ellertson, Commissioner